

Memorandum

Date : September 3, 1999

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To : Commissioner Robert A. Laurie, Presiding Member
Chairman William J. Keese, Associate Member

File: 99-AFC-3

From : California Energy Commission - Lorraine White
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Subject : METCALF ENERGY CENTER APPLICATION FOR CERTIFICATION REVIEW -
STATUS REPORT #1

On June 23, 1999, the California Energy Commission deemed data adequate the Metcalf Energy Center (MEC) Application for Certification (AFC) submitted jointly by Calpine Corporation and Bechtel Enterprises, Inc. (Calpine/Bechtel). In its Scheduling Order issued July 16, 1999, the MEC Siting Committee directed parties to submit a status report on September 3, 1999. This document is staff's report.

CONCLUSION:

We are very concerned about the applicant's delayed responses to data requests and potential changes in the site configuration and linear routes for the proposed MEC. Because of our extreme workload, staff will not be able to provide a quality product according to the Committee's schedule if the data responses are delayed and if the project is significantly modified or if staff is asked to evaluate multiple project configurations. We also urge the Committee to hold a meeting to discuss the issues on the project as soon as possible.

RECENT AND UPCOMING EVENTS/ACTIVITIES:

July 23, 1999: Staff submitted data requests to Calpine/Bechtel in the areas of: air quality, alternatives, biological resources, cultural resources, power plant efficiency, facility design, geology, hazardous materials management, land use, noise, public health, socioeconomics, transmission system engineering, visual resources, waste management, and water resources.

August 3, 1999: Staff held a workshop to provide clarifications to the applicant regarding the July 23, 1999 data requests. The meeting was well attended by members of the public who asked many questions and expressed many concerns about the project. It was determined that staff would hold a workshop prior to the end of August to provide the public with information about staff's analysis in specific technical areas and to obtain input and comments from the public.

August 9, 1999: Calpine/Bechtel filed their objections to six of staff's data requests all regarding alternatives to the proposed project. In addition, the applicant notified staff of their need for additional time to answer several other of the data requests, particularly in the areas of visual resources, air quality, biology, and cultural resources.

August 19, 1999: Staff held a workshop to provide the public and interested parties information about analyses conducted in the areas of air quality, public health, water resources, land use, visual resources and socioeconomics. Staff received many comments from those in attendance.

August 23, 1999: Calpine/Bechtel submitted their data responses set #1a.

August 27, 1999: Calpine/Bechtel submitted their data responses set #1b.

September 3, 1999: Calpine/Bechtel expects to file additional responses to staff's data requests #1.

September 17, 1999: Calpine/Bechtel expects to file additional responses to staff's data requests #1.

October 1, 1999: Calpine/Bechtel expects to file additional responses to staff's data requests #1 and to file a supplement to the AFC (see discussion below).

December 7, 1999: Staff files Preliminary Staff Assessment (PSA) as directed by the MEC Siting Committee.

STATUS OF STAFF ANALYSIS AND RELATED ISSUES:

1) Data Requests – On June 23, 1999 staff submitted to Calpine/Bechtel data requests in the areas of air quality, alternatives, biological resources, cultural resources, power plant efficiency, facility design, hazardous materials management, land use, noise, public health, socioeconomics, traffic and transportation, transmission system engineering, and visual resources. In its filings on August 9, 1999, Calpine/Bechtel informed staff that it would need additional time to respond to several of staff's data requests. The applicant has also informed staff that an AFC supplement will be filed no earlier than October 1, 1999. According to the applicant, the supplement will describe an alternate site configuration and visual treatment, as well as identify additional linear routes they want the Energy Commission to consider. As a result of re-configuring the site, all the air quality modeling has to be redone and new data submitted. Staff has several concerns about the delay in obtaining responses to its data requests and the potential for the supplement to constitute a significant change to the AFC. In particular, staff raises the following questions:

- Given whatever changes are proposed in the supplement, what will the applicant seek certification of and what is the actual project description?
- How will the submittal of the supplement no earlier than October 1, 1999 impact the overall schedule?
- Will the supplement contain adequate information at a satisfactory level of detail to allow proper review of the proposed changes to the project?
- What is necessitating the changes that will be contained in the supplement and will the reasons and justifications for these changes be clearly discussed?

Staff expects that it will make additional filings regarding data requests of the applicant.

- 2) MEC Siting Committee Issues and Scoping Hearing – Originally, the Committee was going to hold an Issues and Scoping Hearing to provide guidance to parties in this case. Staff, in its Issues Identification Report, suggested that the Committee hold this hearing no later than August 31, 1999, to ensure parties adequate time to properly analyze the issues the Committee determines to be relevant to this proposal. To date no such hearing has been scheduled. Staff is concerned that: 1) without such a hearing, the Committee will not be aware of the magnitude of issues and concerns surrounding this proposal; and 2) the parties will not be given guidance on the scope or depth of analysis desired by the Committee to prepare its Presiding Member's Proposed Decision.
- 3) Determination of Compliance (DOC) - The BAAQMD, under its Rule 2-3-403, is required to submit a preliminary determination of compliance (PDOC) with the District's rules and regulations 180 days after the District deems the application as complete. As identified in the Committee's scheduling order, the PDOC is expected to be filed with the Commission by October 25, 1999. However, BAAQMD has informed staff that it is very unlikely that it will meet this date given that the second modeling analysis to be contained in the AFC supplement will be much more complex than the existing analysis because it will contain an increments analysis for PM10 and NOx. Depending on how long the PDOC is delayed, staff may not be able to reflect it in its PSA.
- 4) Need for Agency Consultations – At this time, staff has not identified any direct impact to threatened or endangered species from construction. However, there is the possibility that nitrogen loading of the surrounding serpentine soils due to the operation of the proposed power plant could impact listed plants and animal species. If staff determines that the listed species will be impacted by the project, a Section 10(a) consultation with US Fish and Wildlife Service will be required. A Section 2081 incidental take permit will not be required from the California Department of Fish and Game (CDFG), but the applicant will need to obtain a Section 1601 streambed alteration permit from CDFG. Also, the City of San Jose and the County of Santa Clara require permits and public review periods prior to the removal of specific types of trees and staff will recommend that the applicant be required to satisfy the requirements for permits to remove such trees.
- 5) Memorandum of Understanding – Staff continues to refine its proposed memorandum of understanding (MOU) with the City of San Jose. Energy Commission and City staffs expect to finalize the MOU by the end of September.

Please let me know if you have any questions on our comments.

cc: Dockets
Proof of Service 99-AFC-3